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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,309	09/25/2001	Ryo Niitsuma	116692000900	6767
7590	01/14/2005		EXAMINER	
MORRISON & FOERSTER LLP 2000 Pennsylvania Ave, NW Suite 5500 Washington, DC 20006-1888			COLLINS, SCOTT M	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/961,309	NIITSUMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Scott M. Collins	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 September 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. Claims 1-17 examined.
2. It is hereby acknowledged that the following papers have been received and placed of record in the file: Change of Address on 11/07/2002.

### *Priority*

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 101*

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 17 describes a program and no storage medium for the program has been specified, e.g., embodiment on a computer readable medium. A program is “functional descriptive material” akin to music, literary works and a compilation or mere arrangement of data and thus does not fall within one of the five categories of statutory subject matter, namely, new and useful process, machine, manufacture, composition of matter, or any new and useful improvement thereof. See MPEP §2106(IV)(B)(1).

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

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patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-6, 9-14, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by

Brady, U.S. Patent Number 6,633,875 (herein referred to as Brady).

8. Referring to claims 1, 2, 9, and 17, Brady has taught an information creator which creates at least one Web page showing at least one piece of real estate information to be provided through a network (Brady column 26, lines 14-24), said creator comprising:

a. a memory which stores the at least one piece or a plurality of real estate information and at least one template for the at least one Web page (Brady figure 2, data storage 20 and 21; figures 3-7 showing the five different query templates; column 6, lines 56-67; and column 7, lines 24-45); and

b. a page maker which creates the at least one Web page, by incorporating the at least one piece or two or more pieces of real estate information stored in said memory into the at least one template stored in said memory, in such a manner that the plurality of pieces of real estate information are successively displayed in a list form on a single Web page (Brady figures 1, web server 6; 48; 50-52; column 5, lines 53-57; and column 26, lines 14-24).

9. It should be noted that claim 2 has been rejected as the plural form of claim 1 and has been incorporated into the rejection above. It should be noted that claim 9 is the method form of claim 1 and as such the limitations of claim 9 are rejected by the same citations above. It should be noted that claim 17 is the "program" form (see also the 35 USC 101 rejection above) of claim 1 and as such the limitations of claim 1 are rejected by the same citations above.

10. Referring to claims 3 and 4, Brady has taught the information creator further including:

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a. a template selector which selects the at least one template for the at least one Web page, from the plurality of templates stored in said memory, in response to a request from a user of said information creator (Brady figures 3-7, the tab control at the top of the Web pages selects which query template to show in response to the user's request (selection) of a query template); and

b. an information selector which selects the at least one piece of real estate information from the plurality of pieces of real estate information stored in said memory, in response to a request from the user (Brady column 5, lines 53-57 where the information is selected as a generated report in response to a user query request.); and

c. wherein said page maker incorporates the at least one piece of real estate information selected by said information selector, into the at least one template selected by said template selector (Brady figures 48, 50-52; column 5, lines 53-57; and column 26, lines 14-24 where the type of query template selected by the user is incorporated with the user's query itself in order to generate the appropriate type of report).

11. Referring to claims 5 and 6, Brady has taught the information creator wherein:

a. the at least one Web page includes a plurality of Web pages in a hierarchical structure (Brady figures 3-7, column 7, lines 24-45 where the tab control at the top of the Web pages selects which of the five sub Web pages (query templates) to display. Further, Brady column 5, line 58 – column 6, line 3 and column 7, lines 30-35 discuss a hierarchically superior Web page where a user name and password must first be entered.);

b. said memory stores linking information for providing a linking relationship between high and low levels of the hierarchical structure (Brady figures 1, web server 6; 3-7; 48;

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and 50-52 where all data to create the Web pages and the appropriate links between them must inherently be stored in memory.); and

c. said page maker creates all Web pages included in the hierarchical structure, using the linking information (Brady figures 1, web server 6; 3-7; 48; and 50-52 where all the Web pages were indeed created based upon the aforementioned hierarchical structure and linking information.).

12. Claims 10-14 do not recite limitations above the claimed invention set forth in claims 2-6 and are therefore rejected for the same reasons set forth in the rejection of claims 2-6 above.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 7-8, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brady in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made.

15. Referring to claims 7-8, and 15-16, Brady has taught the information creator further including:

a. an information retriever which retrieves real estate information through a network (Brady column 7, lines 46-58; column 13, lines 15-26; and column 15, lines 16-36 where Brady directly refers to retrieving extraneous information from the housing industry); and

b. an information storage unit which stores the information retrieved by said information retriever in said memory (Brady figure 2, data storage 20 and 21 where all information retrieved and used in the system is stored in the data storage.).  
shown on another Web page, from another Web page

16. Brady has not explicitly stated that the real estate information retrieved across a network was retrieved directly from another Web page. However, Examiner takes Official Notice (see MPEP § 2144.03) that at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to also retrieve information from Web pages. One of ordinary skill in the art would have been motivated to do this because the data found on Web pages comprises a significant majority of the data found on the Internet as a whole. To leave out Web pages as a source of information would result in a severe detriment to the amount of information available to the information retriever.

17. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03. However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice

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means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

*Conclusion*

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Mini et al. U.S. Patent Number 6,684,196
- b. Hastings U.S. Patent Number 6,751,596

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott M. Collins whose telephone number is 571.272.3934. The examiner can normally be reached on Mon.-Fri. 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B Harvey can be reached on 571.272.3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JACK B. HARVEY  
SUPERVISORY PATENT EXAMINER

smc  
January 3, 2005